

## **Death Certification and the Statutory Medical Examiner System**

### **Advice for Burial and Cremation Authorities and Companies**

#### **What is happening and why?**

The biggest change to Death Certification in England and Wales for over 50 years is due to commence on 9th September 2024. The changes have come about after many years of debate and planning following recommendations made in the reports into the Harold Shipman murders.

After 9th September 2024, all deaths (except stillborn babies) in England and Wales will be scrutinised either by a Coroner (for unexpected and unexplained deaths) or by a Medical Examiner (for all other deaths). Bereaved families will be able to speak with a Medical Examiner or their Officers and express any concerns they may have about the death.

In some parts of England and Wales, a non-statutory Medical Examiner system has been in place for several years and is working well. Medical Examiners were initially introduced into NHS hospital settings, and have been rolled out into the wider community in some areas. During this non-statutory period there were no changes to the statutory paperwork required for death registration, burials or cremations.

From 9th September the non-statutory system will become statutory and will result in slight changes to the burial and cremation paperwork we need to receive.

In Scotland a similar system has been in operation for almost a decade without any major issues.

You can read more about the background to the changes [here](#).

#### **What is the relevant legislation?**

Various pieces of legislation have been introduced in connection with the changes.

The underpinning primary legislation is:

- section 21 of the [Coroners and Justice Act 2009](#), which was commenced in June 2018
- sections 19 and 20 of the [Coroners and Justice Act 2009](#), which was commenced on 1 October 2023
- section 169 of the [Health and Care Act 2022](#), also commenced on 1 October 2023

The primary legislation allows for the appointment of medical examiners by NHS bodies in England and Wales, and for the making of regulations by governments that provide the detail of how the system will operate.

The secondary legislation made to provide the detail includes:

- [The Medical Certificate of Cause of Death Regulations 2024](#)
- [The Medical Examiners \(England\) Regulations 2024](#)
- [The Medical Examiners \(Wales\) Regulations 2024](#)

- [The National Medical Examiner \(Additional Functions\) Regulations 2024](#)

In relation to burial, there have been no legislative changes other than a slight change to the Coroner's Order for Burial, which can be viewed as Schedule 5 to [The Cremation, Coroners and Notification of Deaths \(England and Wales\) \(Amendment\) Regulations 2024](#).

In relation to cremation, the Cremation Regulations 2008 have been amended by [The Cremation, Coroners and Notification of Deaths \(England and Wales\) \(Amendment\) Regulations 2024](#).

These regulations reflect changes to the forms required before a cremation can take place.

### **What is the new death certification and medical examiner process?**

From 9<sup>th</sup> September 2024, when someone dies and the death does not need to be reported to the Coroner, any registered medical practitioner who has attended the deceased at some point during their lifetime will be able to complete a medical certificate of the cause of death (MCCD), as long as they are able to propose a cause of death to the best of their knowledge and belief. The medical practitioner will send the MCCD to the medical examiner, who will scrutinise this along with any relevant medical records. The MCCD will contain sections where information about medical implants and whether they have been removed must be recorded. The medical examiner will offer bereaved people the opportunity to ask questions and raise any concerns.

Once they are satisfied with the cause of death, the medical examiner will send the MCCD to the Registrar. The person who will be registering the death will be notified at the same time, and they will have five days in which to register the death. At the conclusion of the registration the Registrar will issue a Certificate for Burial or Cremation (the green form), which, in non-coroner's cases, is required before a burial or cremation can take place. The green form will contain information about medical implants gleaned from the MCCD.

There will be little change in the way that a Coroner refers cases to the Registrar; they will send a certificate for registration to the Registrar following the conclusion of an inquest, or if a case is discontinued.

If a Coroner does not believe that a case should come under their jurisdiction, they will refer it back to the medical practitioner. The medical practitioner will then complete the MCCD and send this to the medical examiner for scrutiny.

Where the Coroner declines to take on a case, and there is no medical practitioner who is able to propose a cause of death, the medical examiner may, in exceptional circumstances, complete the MCCD and send it to the Registrar.

### **What do the changes mean for burial and cremation?**

For burial, the only change will be in the slightly changed green certificate that is required ahead of the burial. This will now contain information about medical implants, that is not relevant to the burial authority. For Coroner's cases, the Coroner will issue a slightly amended Order for Burial, which will also contain information about medical implants.

For cremation, a revised system will be in place from 9<sup>th</sup> September 2024. As all deaths will be independently scrutinised, no medical forms will be required ahead of a cremation. Cremation Form 5 was scrapped during the Covid-19 pandemic, and not reintroduced when things returned to 'normal'. Cremation Form 4 continued to be required, but this will also be scrapped from 9<sup>th</sup> September.

Under the new system, for most cremations a crematorium will require the following statutory forms:

**Revised Form 1 – Application for Cremation**

**Revised Registrar's Certificate for Burial or Cremation (green form) or revised Coroner's Form 6**

**Revised Form 10 – Authorisation of Cremation of Deceased Person by Medical Referee**

Medical referees will continue to be required to scrutinise the statutory cremation paperwork and to authorise cremations. Form 10, Authorisation of Cremation, has been slightly amended. The Ministry of Justice has committed to a transitional period where medical referees will continue in their roles whilst the impact of the new system is assessed. During this period the medical referees will scrutinise the revised forms, as well as continuing to scrutinise the existing forms for the cremation of stillborn babies, and body parts, and to authorise all cremations.

The right of bereaved people to inspect the cremation forms ahead of the cremation will be removed from 9<sup>th</sup> September. This is because there will be no medical forms to inspect, and the families will have been given an opportunity to raise any concerns directly with the medical examiner.

The new system will simplify the process of cremation for most adult cremations. There will no longer be a need to check details on medical forms, such as when a medical practitioner last saw the person alive, or if the person completing the medical form is properly qualified.

The revised forms are contained in Schedule 1-3 of [The Cremation, Coroners and Notification of Deaths \(England and Wales\) \(Amendment\) Regulations 2024](#).

### **How will I know if hazardous implants have been removed?**

The medical practitioner who completes the MCCD will be obliged to record the presence of medical implants, and to indicate if they have been removed. The information on the MCCD will be replicated on the green form. Cremation Form 1 will also contain a question about implants for the Applicant to complete, including whether they have been removed and if not what they are and their location.

For Coroner's cases, the Coroner will be obliged to provide information about the presence of medical implants and whether they have been removed on Cremation Form 6.

The medical referee will need to be satisfied that they have enough information to authorise the cremation without presenting a danger to the cremator and cremator operators.

The Ministry of Justice will issue guidance for those required to provide information about medical implants, including how important this is before a cremation can take place.

### **When does the new system come into effect?**

The new system comes into effect on 9<sup>th</sup> September 2024. The Ministry of Justice are due to issue guidance on transitional arrangements, but in general if a death has not been registered before 9<sup>th</sup> September 2024 the current system applies.

### **When will we receive a useable version of the revised forms and guidance?**

The Ministry of Justice are due to circulate clean versions of the revised forms by mid-August so that these can be circulated ahead of the implementation date. Revised guidance will also be circulated by the Ministry of Justice ahead of the implementation date.

### **Where can I find out more information?**

The Ministry of Justice has published a useful question and answer document, which can be viewed [here](#).

### **How do I raise any concerns about the new process for cremation with the Ministry of Justice?**

You can email any questions, concerns or other feedback to:

[FuneralSectorBurialsandCremation@justice.gov.uk](mailto:FuneralSectorBurialsandCremation@justice.gov.uk)